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10 FLAGSHIP WEST, LLC, MARVIN G. REICHE  
and KATHLEEN REICHE

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA (FRESNO)

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14 FLAGSHIP WEST, LLC, a California  
limited liability company, MARVIN G.  
15 REICHE, and KATHLEEN REICHE,

16 Plaintiffs,

17 v.

18 EXCEL REALTY PARTNERS, L.P., a  
Delaware limited partnership, NEW  
19 PLAN EXCEL REALTY TRUST, INC.,  
a Maryland corporation, THE MONEY  
20 STORE COMMERCIAL MORTGAGE,  
INC., a corporation, FIRST UNION  
21 SMALL BUSINESS CAPITAL, a North  
Carolina corporation, and DOES 1  
22 through 50, inclusive,,

23 Defendants.

Case No. 02-CV-5200 OWW DLB

**AMENDED JUDGMENT**

The Honorable Oliver W. Wanger

Trial Date: November 12, 2003

On December 3, 2003, a jury returned verdicts in favor of Plaintiffs, awarding Plaintiffs \$1,480,740 in contract damages. Plaintiffs then elected the remedy of rescission and consequential damages. The district court determined in its Memorandum Decision and Order Re: Post-Trial Election of Remedies, dated September 30, 2005, that Plaintiffs were entitled to rescission and consequential damages, the amount of which is set forth in the district court's Memorandum Decision Re: Rescission Damages and Availability of Prejudgment Interest, dated November 14, 2006, and previous orders. On May 30, 2007, the Court entered its Order granting in part and denying in part EXCEL REALTY PARTNERS, L.P.'s Renewed Motion for Judgment as a Matter of Law and Motion to Alter or Amend Judgment and amending Paragraph 2 of the Judgment entered on December 14, 2006.

JUDGMENT IS ENTERED AS FOLLOWS:

1. The Ground Lease ("Lease") entered into between Plaintiffs and Defendant, EXCEL REALTY PARTNERS L.P., (attached as Exhibit B to Plaintiffs' Second Amended Complaint), signed by the individual Plaintiffs as guarantors in their individual capacities to pay rent and perform all covenants is rescinded from its date of execution, and such Lease shall have no future force and effect, as if all Plaintiffs and Defendants had not entered into and executed the Lease;

2. Plaintiffs FLAGSHIP WEST, LLC, MARVIN G. REICHE, and KATHLEEN REICHE, and each of them, are awarded \$2,590,406 for damages in rescission and consequential damages resulting from Defendants' breach of contract, minus credits due Defendants in the amount of \$455,976, and therefore shall recover from Defendants, EXCEL REALTY PARTNERS L.P., in the amount of \$2,134,430.

3. Judgment as a matter of law was entered in favor of defendant NEW PLAN EXCEL REALTY TRUST, INC., and against Plaintiffs, on November 23, 2003;

4. Plaintiffs shall recover their costs as allowed by law upon filing of a Cost Bill as provided in Rule 54-292 of this Court;

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1           5.       Any motion for attorney's fees shall be filed as provided in Local Rule 54-293 of  
2 this court.

3           **IT IS SO ORDERED**

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5 Dated: \_\_\_\_6/15/2007\_\_\_\_

/s/ Oliver W. Wanger\_\_\_\_\_  
HON. OLIVER W. WAGNER  
UNITED STATES DISTRICT JUDGE

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